Wisconsin State Senate
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JULIE LASSA

STATE SENATOR

TESTIMONY for Senate Bill 55
The Downtown Wisconsin Act
Senate Committee on Economic Development
Tuesday, March 31, 2009
Room 201 Southeast

Good morning. I would like to thank members of the committee for their consideration of this bill. I appreciate the opportunity to speak about the importance of SB 55 – the Downtown Wisconsin Act.

The 2009-2010 Downtown Wisconsin Act is the culmination of a seven-year effort of discussions by downtown planners, business owners, historic preservationists and developers across the state.

Representative Shilling began to work on this legislation during the 2002-03 session with former Representative Dan Schooff; since that time, she and I have spent a great deal of time working with key stakeholders to address their concerns and craft a bill that we strongly believe will help spur economic development in Wisconsin's downtowns. We feel that Senate Bill 55 will accomplish just that, and we are hopeful that members of the committee will agree.

The Downtown Wisconsin Act includes several provisions intended to grow the state's economy at the local level, foster small business development, and prevent urban sprawl.

This proposal includes:

- Creating a definition and certification process for downtowns interested in economic development efforts.
- Establishing guidelines to assist communities in reconstructing central business districts that are destroyed or severely damaged in major disasters.

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- Facilitating the preservation and restoration of historic buildings through a more flexible interpretation of the State Historic Building Code.

- Language to improve Community Sensitive Design (CSD) consideration for Main Street Communities and Dept. of Commerce Certified Downtowns. Community Sensitive Design is a current DOT initiative to identify and consider the physical, environmental, social, cultural, aesthetic and transportation elements in the planning, design, construction, operation and maintenance of transportation projects. CSD is an enhancement program with a percentage of project dollars used to improve the landscape along the highway or the character of a local community. CSD funds could be used to improve the physical appearance of the Main Street business districts. Projects in the downtown area could include: decorative lighting, landscaping, planting, bicycle and pedestrian facilities, park benches, banners and signage.

- Allowing the improved tax credit is applicable to all properties that are eligible for the income producing credit, instead of only providing the tax credit to properties in certified downtown districts. This would increase the preservation of historic buildings by eliminating the differential treatment of historic properties that fall outside of the certified downtown districts.

Our downtowns are the heart and soul of our communities. They traditionally have been the economic hubs of our communities. Their strength is vital to the overall health of the community. This is especially true in the current economic downturn, when boarded-up storefronts and strained community resources may contribute to the decay of Wisconsin's downtowns.

As the legislature focuses on strategies to reinvigorate the state's economy, it is absolutely necessary that the development and revitalization of our downtowns be part of this debate. Any comprehensive economic development initiative must include a downtowns component that focuses on the growth of our central business districts.

If we do not make the development of our central business districts a primary goal of our economy strategy, we are severely limiting our potential throughout this state for economic growth and job creation.

WISCONSIN HISTORICAL SOCIETY

Testimony before the Economic Development Committee.
2009 Senate Bill 55
March 31, 2009

I am Michael Stevens and am State Historic Preservation Officer and Administrator of the Division of Historic Preservation and Public History at the Wisconsin Historical Society.

The Wisconsin Historical Society supports SB55. This bill will not only help save Wisconsin's historic buildings, but at the same time will encourage investment and create jobs in Wisconsin. The federal government currently provides a 20% historic rehabilitation tax credit. Last year this credit generated $55 million in investment in Wisconsin. According to a report from the National Park Service, Wisconsin ranked 17th in the nation in investment in historic properties using the federal credit.

Compare that to the rankings of states that have a similar credit to what is proposed here. Missouri ranked first in 2008 with $376 million in investment and the impact of historic preservation on the economy has been demonstrated. A 2001 Rutgers University study of the Missouri historic preservation tax credit program demonstrates the substantial impact on that state's economy. The Rutgers study reports that Missouri's credits, in addition to creating jobs in the building trades, also increased tourism spending and jobs and the generation of more taxable income as additional benefits. The total economic impact identified 8,060 direct jobs and a total of 28,496 jobs and $582 million in economic activity.
(http://www.dnr.mo.gov/shpo/RutgersStudy.pdf)

Similar results can be seen in reports from Virginia, Maryland, and Rhode Island, which ranked 4th, 6th, and 11th in the nation, all with strong state tax credit programs. My written remarks contain internet links to these economic reports that report the creation of 10,000 jobs in Virginia, 8,000 jobs in Maryland, and 5,000 jobs in Rhode Island as well as hundreds of millions of dollars in economic activity in these states.

Virginia: http://www.dhr.virginia.gov/pdf_files/Prosperity%20through%20Preservation.pdf
Maryland: http://www.preservationmaryland.org/pdf/PM_Value_scn.pdf
Rhode Island:
http://www.preservation.ri.gov/pdfs_zips_downloads/credits_pdfs/hpitc_pdfs/hpitc-study_pdfs/hpitc_analysis-2005.pdf

One of the challenges for Wisconsin is that there is a national market for federal historic preservation tax credits and that the financing and development on historic preservation projects go to states that have more favorable supplemental state credits.

Historic preservation work can't be shipped off-shore or even out of state. Most of the work on a historic property in Wisconsin is done in Wisconsin, which means jobs for our citizens. Since the federal tax credit program began 30 years ago, more than one and a quarter billion dollars of investment has been made in historic properties in Wisconsin, an investment that created jobs that stayed in this state. A recent report from the National Park Services estimated that 67,705 jobs were created nationally as a result of the federal historic preservation tax credit program.

There will be increased expenses associated with reviewing any increase in tax credit applications, but these will be recovered by a fee on applicants, not from GPR. The bill initially provides for authorization of 1 program revenue position, which should be sufficient in the first year of credit, although that number may need to rise to about five positions if the Wisconsin experience matches those of other states. In that event, the cost of administration could still be covered from applicant fees, not general purpose revenue.

In addition, the legislation does two other important things that will help preserve historic properties. For the first time, Wisconsin's credit will be decoupled from the federal credit, which will allow some small projects to become eligible. Because of this change, projects in smaller communities will become financially viable.

In addition, the legislation provides for transfer of 50 percent of the fees generated from reviewing applications for income-producing properties to the Department of Commerce's Main Street program, which will help promote economic activity in downtowns across the state.

In summary we believe that this legislation is good both for history in Wisconsin and for Wisconsin's economic development.

Preserving America's Heritage

ECONOMIC REASONS FOR INVESTING IN HISTORIC PRESERVATION

The economic impacts and benefits of historic preservation are both far-reaching and profound. Preservation is a vital economic development tool for communities and regions, while at the same time it is a proven means for creating jobs, attracting investment, generating tax revenue, and supporting small business and affordable housing.

The following statistics from recent studies are typical of the positive findings of preservation's economic benefits:

- Rehabilitation of historic properties in Georgia during a five-year period created 7,550 jobs and $201 million in earnings.
- Historic preservation activities generate more than $1.4 billion of economic activity in Texas each year.
- Each dollar of Maryland's historic preservation tax credit leverages $6.70 of economic activity within that State.
- In one year, direct and indirect expenditures by heritage tourists in Colorado reached $3.1 billion.

Studies conducted in a number of states over the last fifteen years support some general findings:

Job Creation. Historic preservation projects create jobs, especially in the manufacturing, retail trade, services, and construction sectors. In FY 2008, projects approved for federal tax credits had average budgets of $4.58 million and generated 55 jobs each.[1]

Tax Revenue. Historic preservation makes a substantial contribution to tax collections for state and local governments as well as the federal government.

Investment Leveraging. Public funds as well as other public investment in historic preservation projects through grants, revolving funds, loans, and tax credits are matched many times over with private investment in local rehabilitation projects. In 2008, for example, approximately $1.128 billion in federal tax credits stimulated private investment totaling $5.64 billion.[2]

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[1] *Federal Tax Incentives,* National Park Service, February 2009.
[2] *Federal Tax Incentives*, p. 3.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

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Property Values. Historic preservation in localities and neighborhoods generally helps to maintain property values. For example, while complex and locality-specific, research in both commercial and residential areas in several locations in Colorado concluded that historic designation did not decrease property values, but increased value or maintained it at the same level as nearby undesignated areas.[3]

Small Business Development. Main Street, local and regional heritage tourism initiatives, and similar community programs generate small business investment and strengthen other public investments. Many state-wide studies have found the National Main Street program highly effective, and extremely cost-effective.

Heritage Tourism. Visitors to states, localities, and regions spend billions of dollars while visiting historic sites and cultural attractions. Visitors to historic sites and cultural attractions stay longer and spend more money than other kinds of tourists, and therefore make an important contribution to local lodging and restaurant taxes, suppliers of goods and services, and other businesses. Projects that advance heritage tourism are proven economic generators, leveraging existing resources to achieve immediate results for a wide range of local and small businesses. As reported in 2002, in Florida more than $3.7 billion was spent by tourists visiting historic and cultural sites.

Public Property Management. Publicly-owned historic properties help anchor and sustain communities, attract investment, and may provide a visitor destination in addition to their other uses. They support local and regional economies through ongoing facility operations, repair and maintenance, concessions, and other related enterprises.

A 2005 synthesis of research on economics and historic preservation has concluded that "very few of the 500 or so categories of economic activity" has as much economic impact (measured as jobs created, increase in household income, and demand created on other industries) as the rehabilitation of historic buildings. The author goes on to note that "virtually every example of sustained success in downtown revitalization—regardless of the size of the city—has included historic preservation as a key component of the strategy." The Main Street approach of small business development in historic areas is singled out as an extraordinarily cost-effective strategy for commercial revitalization.[4]

Over the last fifteen years, there have been studies conducted at the statewide level in at least 22 states on the economic benefits of historic preservation.[5] These studies provide substantial support to these general findings and, in local real estate markets, point to enhanced property values and tax revenue associated with both commercial and residential historic districts.

The most recent statewide study, prepared by The Rutgers University Center for Urban Policy Research, Edward J. Bloustein School of Planning and Policy in cooperation with Professor Dan Rickman of Oklahoma State University, was published in 2008 for the state of Oklahoma. The study found that in Oklahoma, a total of $357 million annually in direct spending (including rehabilitation of historic structures, heritage tourism, and the Main Street program) created over 8,000 jobs in Oklahoma. These jobs generated $460 million in output, $166 million in labor

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[3] Clarion Associates, *The Economic Benefits of Historic Preservation in Colorado,* prepared for Colorado Historical Foundation, Denver, July 2005.

[4] Donovan Rypkema, *The Economics of Historic Preservation*, National Trust for Historic Preservation, Washington, DC, 2005 (2nd edition), pp. 2-3.

[5] Alabama (2002); Arkansas (2006); Colorado (2002, 2005); Florida (2003); Georgia (1999); Kentucky (1996); Maryland (2000, 2003); Massachusetts (2002); Michigan (2002, 2006); Missouri (2001, 2002); Nebraska (2007); New Jersey (1997, 1998); New York (2000); Oklahoma (2008); Rhode Island (1996, 2005); South Carolina (2003); Tennessee (2005); Texas (1999); Virginia (1995, 2008); Washington (2006); and West Virginia (1997).

income, $243 million in gross state product (GSP), and $25 million in Oklahoma state and local tax revenues.[6]

Studies show that building rehabilitation outperforms new construction in creating economic activity, and that "Dollar for dollar, historic preservation is one of the highest job-generating economic development options available."

> *In Michigan, $1 million in building rehabilitation creates 12 more jobs than does manufacturing $1 million worth of cars. In West Virginia, $1 million of rehabilitation creates 20 more jobs than mining $1 million worth of coal. In Oklahoma $1 million of rehabilitation creates 29 more jobs than pumping $1 million worth of oil. In Oregon $1 million of rehabilitation creates 22 more jobs than cutting $1 million worth of timber. In Pennsylvania $1 million of rehabilitation creates 12 more jobs than processing $1 million worth of steel. In California $1 million of rehabilitation creates 5 more jobs than manufacturing $1 million worth of electronic equipment. In South Dakota $1 million of rehabilitation creates 17 more jobs than growing $1 million work of agricultural products. In South Carolina $1 million of rehabilitation creates 8 more jobs than manufacturing $1 million worth of textiles.*[7]

These are not just temporary construction jobs, but also permanent jobs of various types, including continuing building repair and maintenance. As past studies have found, there are both direct and indirect economic effects from historic preservation, and there is an economic multiplier effect that ripples through the economy.

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[6] David Listokin, Michael L. Lahr, Bryan Grady, and Dan S. Rickman, *Economic Impacts of Historic Preservation in Oklahoma*, Preservation Oklahoma, Inc. and Center for Urban Policy Research, Rutgers, the State University, Trenton, N.J., 2008, p. 4.

[7] Rypkema, 2005, pp. 11-12.

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Senate Economic Development Committee Hearing, March 31, 2009

SB-55 – Historic Preservation Credits (Lassa)

Description of Current Law and Proposed Change

Current Law

Two nonrefundable credits are currently available to encourage the rehabilitation of historic buildings in Wisconsin: a supplement to the federal historic rehabilitation credit for commercial properties and a state credit for non-commercial properties.

The supplement to the federal historic rehabilitation credit, equal to 5% of qualified rehabilitation expenditures, can be claimed for projects that are eligible for the federal credit to substantially rehabilitate certified historic buildings for use in a trade or business. The credit is patterned after the federal 20% credit for commercial rehabilitation of historic buildings. Claimants must submit evidence to the Department of Revenue that the rehabilitation work was approved by the Secretary of the Interior before construction began. The rehabilitation work must meet historic preservation standards and the expenditures must exceed the taxpayer's adjusted basis in the building. Unused amounts of the credit can be carried forward for up to 15 years.

The state historic rehabilitation credit is equal to 25% of qualified expenditures to substantially rehabilitate certified historic buildings for owner-occupied personal residences not used in the course of a trade or business. The rehabilitation work must meet historic preservation standards and the expenditures must exceed $10,000. The maximum credit amount is $10,000 ($5,000 for married persons filing separately). Unused amounts of credit can be carried forward for up to 15 years.

Description of the Bill

Beginning in tax year 2010, the bill increases the amount of the supplemental state credit from 5% to 20% for rehabilitated property located in the state. The claimant must have approval for the rehabilitation from the State Historical Society.

Additionally, individuals who are not eligible for the federal historic rehabilitation credit because qualified rehabilitation expenditures do not satisfy the adjusted basis requirement will be allowed to claim the supplemental state credit in an amount equal to 20% of qualified expenses if the following conditions are met: 1) the rehabilitated property is located in the state, 2) the qualified expenses are at least $10,000, 3) the project is certified by the State Historical Society before construction begins, and 4) construction begins after December 31, 2009. Claimants must claim the credit for the same taxable year as the credit would have been claimed for federal purposes.

If the property owner is a nonresident of Wisconsin who is not required to file an income tax return, the bill allows the owner to enter into an agreement with another person so that the other person may claim the supplemental state credit. The agreement requires approval from the Department of Revenue.

All or a portion of the supplemental credit must be paid back to the state if the property is sold or conveyed or the State Historical Society determines that the property has been altered to the extent that it does not comply with the standards for rehabilitation.

Beginning in tax year 2010, the bill also increases the state credit rate for owner-occupied residences from 25% to 30% provided that the rehabilitated property is located in the state and the claimant has approval for the rehabilitation from the State Historical Society.

The Department of Revenue has submitted the following technical comments to the author

Transferability of tax credits

The author may wish to consider whether to include exceptions in the language regarding selling or conveying the property in s. 71.07(9m)(h), 71.28(6)(h), and 71.47(6)(h). It is unclear what would happen in cases when there is transfer involving a disregarded entity or a transfer to a revocable or irrevocable trust.

Section 71.07(9m)(g) provides that a nonresident of Wisconsin who is not required to file a Wisconsin return may enter into an agreement with another person so that the other person may claim the credit. Because the credit only applies to depreciable property (rental or other property used in a trade or business), it is unlikely that the owner of the property would not be required to file a Wisconsin return. A nonresident of Wisconsin is required to file a return if gross income from such property and other Wisconsin sources is $2,000 or more. Furthermore, any income received from transferring the credit would be taxable. It is unclear why a nonresident would transfer a credit.

The bill provides that a "person who receives a credit" must repay that credit if the property is sold within five years or the property has been altered to the extent that it does not comply with the standards. Since there are no requirements to report transfers of tax credits, it appears that the person who receives the credit is the property owner. Unless the bill sponsor wants to establish a new mechanism whereby all credit transfers are reported, the bill should clarify that the property owner is required to repay any credit that has been disallowed, even though that credit may have been transferred to another person.

Sections 71.28(6)(g) and 71.47(6)(g) provide that a nonresident corporation or insurance company who is not required to file a Wisconsin return may enter into an agreement with another person so that the other person may claim the credit. With respect to a corporation, the term "nonresident" needs to be defined. One possibility is defining a nonresident corporation as a corporation not domiciled in Wisconsin as that term is defined in s. 71.22(1g). Unlike an individual, a corporation that owns property in Wisconsin is required to file a Wisconsin return, regardless of the amount of income earned. As with s. 71.07(9m)(g), the statute should specify who must repay a credit that is disallowed.

Statute of limitations

The bill provides that the credit is to be claimed for the same taxable year in which the claimant would have claimed the credit for federal purposes. Under federal law, the credit is either claimed when the project is complete or as progress is being made, depending on the facts and circumstances. If a taxpayer elects to claim the expenditures as they have been paid rather than when the project is completed, the statutes should provide that the taxpayer must file an election form with the department and agree that notwithstanding s. 71.77, the department may adjust or disallow the credit claimed within four years after the date that the State Historical Society notifies the department that the preservation or rehabilitation is not in compliance with the standards under s. 44.02(24), Stats.

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